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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,226	12/21/2001	Malcolm J. Begemann	P-8263	3298

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MEDTRONIC, INC.
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EXAMINER

BRADFORD, RODERICK D

ART UNIT PAPER NUMBER

3762

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,226

Applicant(s)

BEGEMANN ET AL.

Examiner

Roderick Bradford

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 21-40 is/are pending in the application.
- 4a) Of the above claim(s) 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7, 8, 21, 22, 27, 28 and 30-40 is/are rejected.
- 7) ☒ Claim(s) 3-6, 9, 10, 23-26 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6 June 2003
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 11-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group and species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 28, 2004.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 7, 8, 21, 22, 27, 28, 30-33, 38 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Levine et al. Pub No. US 2002/019984.

Referring to claims 1, 21, 30 and 32, Levine discloses a method of pacing opposing chambers of the heart with a pacing system comprising a first and second unipolar electrical leads for positioning in opposing chambers, an implantable pulse generator further comprising an hermetically sealed housing capable of serving as a can electrode, and means for switching electrode configurations comprising:

- Determining a primary electrode configuration (abstract)

- Selecting a cathode from the first primary electrode, the second electrode and the can electrode bases on the primary electrode configuration (abstract)
- Selecting an anode from the first primary electrode, the second electrode and the can electrode bases on the primary electrode configuration (abstract)
- Delivering a first pulse between the cathode and the anode (abstract)

Referring to claim 5, further comprising; determining an alternate electrode configuration, selecting an alternate cathode and anode and delivering a second pulse between the alternate cathode and anode [0085].

Referring to claims 7, 27 and 37, delivering the first pulse between the cathode and anode so that the direction of the pulse occurs from the first opposing chamber to the second opposing chamber (Table IV).

Referring to claims 8, 28 and 38, delivering the first pulse between the cathode and anode so that the direction of the pulse occurs from the second opposing chamber to the second opposing chamber (Table IV).

Referring to claim 31, memory operably connected to the processor [0051].

4. Claims 30-33 and 36-40, rejected under 35 U.S.C. 102(b) as being anticipated by Alt WO 00/04950.

Referring to claims 30 and 32, Alt discloses an implantable pulse generator within a housing, the housing adapted to serve as the can (Fig 3), a first and second unipolar medical electrical lead operably connected to the implantable pulse generator

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the first unipolar lead having at least one first electrode configured for positioning in a first opposing chamber of the heart and the second unipolar lead having at least one second electrode configured for positioning in a second opposing chamber of the heart (Figs. 3 and 4) and selecting means for selecting at least one of the first electrode, the second electrode and the can electrode (claim 16) and wherein a primary electrode configuration is determined and a cathode is selected with the selecting means and a pulse is delivered between the cathode and anode (claim 37).

Referring to claim 31, memory operably connected to the processor (Fig. 1).

Allowable Subject Matter

5. Claims 3-6, 9, 10, 23-26 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roderick Bradford whose telephone number is (703) 305-3287. The examiner can normally be reached on Monday - Friday 7 a.m. - 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

R. Bradford

RB

Angela D. Sykes

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